

**DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**

3927 Lennane Drive, Suite 100  
Sacramento, CA 95834  
(916) 419-2500

**FOR IMMEDIATE RELEASE**

Contact: John Carr (916) 419-2525

August 4, 2005

PR 05-87

**ABC FOCUSES ENFORCEMENT EFFORTS ON TRADE PRACTICE VIOLATIONS**

**(Sacramento)** - The Department of Alcoholic Beverage Control's Business Practices Unit recently concluded several investigations of non-retail industry members who violated provisions of the ABC Act. Those violations included the prohibition of the giving of free goods to consumers, of cooperatively advertising with retailers, and also paying for the privilege of placing brand advertising in retail-licensed businesses. The Business Practices Unit has also given specialized trade practices enforcement training to approximately 50 investigators throughout the state of California.

"The Business Practices Unit helps keep a fair business playing field for California's huge alcohol industry," said ABC Director Jerry Jolly. "Their function is vital to ABC's overall enforcement efforts."

The unit recently cited a major beer importer for a violation of Section 25600 of the ABC Act. The violation occurred when the importer gave consumers an illegal incentive to purchase a specified product. Those who purchased the importer's beer products were given free music downloads having a per unit value exceeding the monetary limit of twenty-five cents imposed by the ABC act.

Two major beer manufacturers were also cited for engaging in illegal cooperative advertising programs with retail licensees. Such activity violated several tied-house statutes as well as Department Rule 106 which provides regulatory guidance for lawfully advertising and merchandising alcoholic beverages in California.

"Tied-house" refers to a system of laws that regulate how alcoholic beverages are marketed and how manufacturers, wholesalers and retailers interact. The term originated in England where a bar was "tied," either by ownership or contract, to a specific manufacturer. Prior to the beginning of Prohibition in 1920, this practice was allowed in the United States and it often caused the overconsumption of alcohol resulting in numerous social problems.

A recent Third District Court of Appeal ruling upheld Department interpretations of several tied-house statutes as well as Rule 106(i)(2) concerning supplier-sponsored contests. In its published decision, the Appeals Court stated that promotions companies whose primary goal is marketing and working on behalf of retail licensees cannot be considered bona fide professional or amateur organizations under Rule 106(i)(2). The ruling means alcoholic beverage suppliers cannot legitimately pay contest sponsorship money to these marketing companies. The Court also supported the Department's position on another key provision of California's tied-house statutes. The court ruled that money or other thing of value that a supplier gives or furnishes indirectly to a retail licensee through an intermediary working on behalf of the retailer is a violation of the law.

ABC is a department of the Business, Transportation and Housing Agency, which is under the direction of Secretary Sunne Wright McPeak, a member of the Governor's Cabinet.